

Order

Michigan Supreme Court
Lansing, Michigan

November 2, 2011

Robert P. Young, Jr.,
Chief Justice

142617-8

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 142617-8
COA: 286550; 293650
Macomb CC: 2005-001604-FC

CHARLIE LEE FLOYD,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the December 28, 2010 judgment of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting appeal, we VACATE that part of our order in this case dated June 27, 2008, 431 Mich 938-939, which found a violation of *People v Tanner*, 387 Mich 683 (1973). The decision in *Tanner, supra*, does not apply to sentences where the statutory maximum is “life or any term of years.” See *People v Powe*, 469 Mich 1032 (2004); *People v Drohan*, 475 Mich 140, 162 n 14 (2006); *People v Harper*, 479 Mich 599, 617 n 31 (2007), and *People v Washington*, 489 Mich 871 (2011). We therefore VACATE that part of the judgment of the Court of Appeals that remanded for resentencing based on a violation of *Tanner*. In all other respects, leave to appeal is DENIED because we are not persuaded that the remaining questions presented should be reviewed by this Court.

CAVANAGH, J., would grant leave to appeal.



t1026

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 2, 2011

Corbin R. Davis

Clerk